

Fleming, et al. v. COP, et al.
No. CV04-2338 RSM

**DECLARATION OF MARCUS B. NASH
IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

EXHIBIT E

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KENNETH FLEMING and JOHN DOE,

Plaintiffs,

vs.

THE CORPORATION OF THE PRESIDENT OF THE
CHURCH OF JESUS CHRIST OF LATTER-DAY
SAINTS, a Utah corporation sole, a/k/a
"MORMON CHURCH"; LDS SOCIAL SERVICES
a/k/a LDS FAMILY SERVICES, a Utah
corporation,

Defendant.

NO. 04-2338 RSM

DEPOSITION UPON ORAL EXAMINATION OF
JAMES ALLENBACH
VIDEOTAPED PROCEEDING

9:39 o'clock a.m.

July 20, 2005

601 Union Street

Suite 3100

Seattle, Washington

REPORTED BY:

ALISON LOTT, CCR#2337

EXHIBIT E

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1 Q Do you have any questions before we start?
 2 A No.
 3 Q Have you ever had your deposition taken before?
 4 A No.
 5 Q All right. This proceeding, you're under oath the same as
 6 if you're in a courtroom. And because you are a named
 7 party in this lawsuit, this deposition can be used
 8 basically for any purpose. We can even use it in the
 9 courtroom and read it to the jury later on. So it's
 10 important that you understand and answer my questions
 11 completely, truthfully, and if there's any hesitation about
 12 what I mean, please ask me, okay?
 13 A Okay.
 14 Q Would you please give me your date of birth.
 15 A 9/22/62.
 16 Q So that makes you, today -- you'll have a birthday in
 17 September, but today you're what?
 18 A 42.
 19 Q 42 years old. You're married to whom?
 20 A Sharon Allenbach.
 21 Q How long have you and Sharon been married?
 22 A We've been married 23 years.
 23 Q You're currently living in Vancouver; is that correct?
 24 A Yes.
 25 Q How long have you been down there?

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1 A We've been down there almost four years. Three and a half
 2 years.
 3 Q Is your wife employed?
 4 A Yes, she is.
 5 Q What does she do?
 6 A Assistant at Ross Department Store.
 7 Q And how long has she been there?
 8 A She's going on two years.
 9 Q Are you currently employed?
 10 A No.
 11 Q When is the last time that you were employed?
 12 A It would be eight months ago.
 13 Q And what were you doing at that time?
 14 A Installing windows.
 15 Q For what company?
 16 A Company, Daystar.
 17 Q Daystar?
 18 A Daystar.
 19 Q By the way, I might mention, I cannot hear out of my left
 20 ear very well. My right ear is my good one, so to speak,
 21 so I may interrupt you and ask you to repeat, but that's
 22 the reason.
 23 A Okay.
 24 Q Are you looking for work at this time, or do you believe
 25 you're unemployable?

Page 8

1 A I have been looking for work.
 2 Q Could you tell me a little bit about your educational
 3 background?
 4 A Basically, I struggled through probably the first six
 5 grades, I was kicked out of sixth grade, where I went to a
 6 private church school. There, I struggled through the
 7 rest, and basically graduated through the help of my wife.
 8 Q And what high school did you go to?
 9 A Kent Meridian.
 10 Q After that, did you -- were you able to or did you seek any
 11 further training, such as union apprenticeship or carpentry
 12 school or --
 13 A No.
 14 Q -- truck driving or any trade schools at all?
 15 A No.
 16 Q After high school, what did you do for a living?
 17 A Jumped right into construction.
 18 Q Did you have some aptitude for that or some experience
 19 doing construction work?
 20 A Just from my father.
 21 Q For the record, your father's name was?
 22 A Herman Martin Allenbach.
 23 Q And was he a doctor, or dentist?
 24 A Oral surgeon, maxillofacial.
 25 Q How long did you work for your father? About how long?

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1 A Probably a good ten years.
 2 Q And what type of work did you do for him?
 3 A Construction, vending business, excavating. He was into
 4 several different trades.
 5 Q Have you worked as a physical fitness instructor?
 6 A We opened a fitness club, assistant.
 7 Q When you say "we," who are you talking about?
 8 A My father and myself.
 9 Q Where is that located?
 10 A Alderwood, Alderwood Mall.
 11 Q And what were your duties there?
 12 A Basically train and show people equipment, how to use the
 13 proper usage.
 14 Q And what type of training did you have to do that?
 15 A Basically, it was just mostly to -- you know, the
 16 equipment, stuff like that, I showed them how they -- you
 17 know, use the machines, what muscles they would use -- you
 18 know, what muscles they would be strengthening, things like
 19 that.
 20 Q And had you learned that, if I can use the phrase, on the
 21 job, by having --
 22 A Yes.
 23 Q -- been engaged in a physical fitness program most of your
 24 life?
 25 A Yes.

3 (Pages 6 to 9)

Page 22

1 Q Yeah.
 2 A I can't remember.
 3 Q Was it a couple of years before, or was it six months
 4 before, or what was it, if you can remember?
 5 MR. KOSNOFF: Mr. Frey, perhaps if you could
 6 give him the date of the filing of the lawsuit, orient him
 7 as to the filing.
 8 MR. FREY: Yeah, I --
 9 MR. KOSNOFF: My recollection, it was late
 10 October, 2004.
 11 MR. NASH: I think that's right.
 12 MR. FREY: That's right. I think it's
 13 October of 2004, so October of last year.
 14 A Did we talk before that?
 15 Q (By Mr. Frey) Did you talk before that, before October of
 16 last year?
 17 A Just briefly before that.
 18 Q How long before October of last year did you talk with
 19 Kenny?
 20 A In months, you mean, or --
 21 Q Was it a month before, six weeks before, two years before?
 22 What was it, if you remember?
 23 A I don't remember.
 24 Q All right. Have you ever talked to a woman named Linda
 25 Walker? Did she ever call you?

Page 23

1 A Yes.
 2 Q How long ago did Linda Walker first call you?
 3 A Couple months.
 4 Q Couple months ago?
 5 A No, before --
 6 Q Oh, before the lawsuit?
 7 A Yeah.
 8 Q Okay. And who did Linda Walker say she was?
 9 A A person that was asking questions concerning -- basically
 10 that asked me questions.
 11 Q That asked you questions about what?
 12 A Concerning Kenny Fleming lawsuit.
 13 Q Did she tell you who she was working for or who she was
 14 involved with or anything of that nature?
 15 A No.
 16 Q Did she ask you whether or not you wanted to join in the
 17 lawsuit?
 18 A No.
 19 Q Did she tell you who she was working for?
 20 A I can't remember.
 21 Q Did you call Kenny after Linda Walker spoke with you?
 22 A No.
 23 Q What kind of questions did she ask you about the abuse?
 24 A I can't remember, it's been so -- it's been a little bit of
 25 time. I have -- my memory is really --

Page 24

1 Q Did she call you or talk to you more than once?
 2 A Yes.
 3 Q About how many times did she talk with you?
 4 A Three.
 5 Q About three times?
 6 A (Witness nods.)
 7 Q Do you remember anything that was said in any of those
 8 conversations?
 9 A No, but --
 10 Q Do you remember the topics you discussed?
 11 A No. Basically, she just talked about -- asked me questions
 12 about Jack Loholt and the church.
 13 Q Did she ask you about other people that might be victims of
 14 his abuse?
 15 A No.
 16 Q She didn't ask you for names of people?
 17 A She -- the names she asked for were ones that were involved
 18 in the Scouting program, kids that I hung out with.
 19 Q All right. And she asked you for those names; is that
 20 correct?
 21 A She didn't -- she just -- who's some of the kids that you
 22 hung out within Scouts.
 23 Q And you gave her those names?
 24 A Yes.
 25 Q Did she ask you [sic] why they wanted those names, why she

Page 25

1 wanted those names?
 2 MR. KOSNOFF: Objection. Form of the
 3 question.
 4 Q (By Mr. Frey) Okay. Go ahead, you can answer. Did she
 5 tell you why she wanted those names?
 6 A Yes.
 7 Q What did she say?
 8 A That it's regarding the church and Jack Loholt, and the
 9 abuse that went on.
 10 Q Did she tell you she was working for anybody?
 11 A I can't remember.
 12 Q Did she tell you she was going to interview those other
 13 people in the Scout program?
 14 A No, she said she was gathering information.
 15 Q Did she ask you to describe the abuse that had occurred
 16 with you?
 17 A Yes.
 18 Q Did you describe it to her?
 19 A Yeah. Yes.
 20 Q Did she ask you if you knew about the nature of the -- the
 21 kind of abuse that anybody else may have suffered?
 22 A Repeat that?
 23 Q Did she ask you about any other abuse that you knew of with
 24 other boys?
 25 A No.

7 (Pages 22 to 25)

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1 Q How long were they in there with your dad?
 2 A I don't remember. A little bit of time.
 3 Q Was your mother there?
 4 A I can't remember.
 5 Q At the time that that incident occurred, was Jack Loholt
 6 living in your your house?
 7 A Yes.
 8 Q Was he living down in the basement?
 9 A Yes.
 10 Q And after that incident, did he continue to live in the
 11 basement?
 12 A I can't remember. I remember just very little things.
 13 Q Do you remember any further abuse that occurred to you down
 14 in that apartment in the basement, other than the two we've
 15 talked about?
 16 A Yes.
 17 Q Pardon me?
 18 A Yes.
 19 Q Okay. Did that abuse continue after this incident of
 20 running around naked or the incident out in the field with
 21 the Kelly boys?
 22 A Yes.
 23 Q And for about how long did that continue after those first
 24 two instances that we've talked about?
 25 A Through Scouting.

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1 Q Do you know how long Jack Loholt continued to live in the
 2 basement?
 3 A No.
 4 Q Do you know if your dad ever talked to Jack Loholt about
 5 the abuse that you had talked to Mrs. Kelly about?
 6 A No.
 7 Q Did he ever come and talk to you about it?
 8 A No. I went to him, and talked to him when I was eight.
 9 Q What did you tell him when you were eight years old?
 10 A That it happened.
 11 Q That what happened?
 12 A With my little sister in the bathtubs.
 13 Q You and your sister were in the bathtub together?
 14 A Yeah.
 15 Q With Jack Loholt?
 16 A (Witness nods.)
 17 Q What did your dad say about that?
 18 A Not much.
 19 Q Do you know if he talked to Jack Loholt?
 20 A No.
 21 Q Did you tell him again after that?
 22 A I can't remember.
 23 Q Any time you want to stop, you just let me know.
 24 A Yeah.
 25 Q We have what we call Answers to Interrogatories,

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1 Mr. Allenbach. And these are questions that were sent to
 2 your attorney for you to answer. And in Interrogatory No.
 3 8, the question was, identify each person that you informed
 4 that you were the victim of inappropriate sexual contact
 5 and to the best of your ability, the date that you informed
 6 such person. The answer given by you was, I told my
 7 father, Herman Allenbach, when I was eight years old, that
 8 Loholt bathed my sister and me. Later, I told my father
 9 that Loholt did inappropriate things to me. I have also
 10 told my wife about the abuse by Jack Loholt. My question
 11 now is, it says, later I told my father that Loholt did
 12 inappropriate things to me. When did you later tell him?
 13 A When I was in Scouting.
 14 Q Were you still in Scouting when you told him, or had you
 15 finished Scouting?
 16 A Would be still in Scouting.
 17 Q When you say you were in Scouting, were you actually in Boy
 18 Scouts at the time? You were a Boy Scout?
 19 A Yeah.
 20 Q And Jack Loholt, what was his position in Scouting at that
 21 time?
 22 A Scout master.
 23 Q So it was while he was Scout master that you told -- and
 24 you were in Scouting, that you told your dad, as you put
 25 here, "I told my father that Loholt did inappropriate

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1 things to me"? Is that when you told him, while Loholt was
 2 Scout master and you were in Scouting? Is that correct?
 3 A Repeat that?
 4 Q Okay. I don't mean to confuse you. You said in your
 5 interrogatory, that, "Later I told my father that Loholt
 6 did inappropriate things to me." You said previously that
 7 that's when you were in Scouting, when you told your dad;
 8 is that correct?
 9 A Yes.
 10 Q Was Jack Loholt the Scout master at the time?
 11 A Far as I know. It was directed under him.
 12 Q Okay. And what did you tell your father was going on?
 13 A That things had happened. I didn't talk to him, tell him
 14 what it was, I just said things had happened to us.
 15 Q Did he ask you what you were talking about?
 16 A He didn't -- we didn't talk much about it. I mean, I was
 17 close to him, but I wasn't close to be able to talk to him
 18 as son to father.
 19 Q What did you say to him that -- about inappropriate
 20 contact? Did you say he'd been touching you or did you
 21 give him any idea of what was happening with Loholt?
 22 A No, I didn't -- I mean, I couldn't talk to him like that,
 23 tell him that he'd been touching. I just said things had
 24 happened.
 25 Q Did you tell him that it upset you? Did you tell him you

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1 didn't like it?

2 A Can't remember. I don't remember it.

3 Q But you told him something about Jack Loholt being

4 inappropriate with you? Is that correct?

5 A Yes.

6 Q Okay. Am I correct in assuming you didn't use the word

7 inappropriate at that age?

8 A No.

9 Q You just said stuff's going on or something like that? Is

10 that correct?

11 A Yes.

12 Q At this time, how old would you have been?

13 A I can't remember. Ten?

14 Q When do you start Scouts? Do you remember when you started

15 Scouts, how old you were?

16 A No.

17 Q Could you have been 12? Let me ask another question. My

18 understanding is that Boy Scouts at that time was 12 to 13

19 years old. Could that be correct, that you were that old

20 at the time --

21 A Yeah.

22 Q -- when you were in Scouts?

23 A The thing -- my dad would always -- I would always come in

24 before Scouts. He had me -- you know, like in baseball, I

25 was too young, but I still was able to get on a team and

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1 play.

2 Q Okay. And in Scouting, did he kind of let you tag along

3 sometimes? Is that what you're talking about?

4 A On camp outs, stuff like that.

5 Q Okay. Were you abused at all by Jack Loholt during the

6 time you were hanging around, or you went on a camp out or

7 something, even though you weren't a Scout?

8 A No.

9 Q After these instances that you've just described, one in

10 the basement, running around naked, to get root beer, and

11 the other one out in the field where he exposed himself,

12 did the abuse continue in the home there?

13 A No.

14 Q Were those the only two instances that you can remember

15 that occurred --

16 A Yes.

17 Q -- while he lived in the basement?

18 A Yes.

19 Q After he moved out of the basement, do you know where he

20 went to live?

21 A I don't know the address, but --

22 Q Was it on the property? Did he stay on your dad's property

23 anyplace, at another building or house or trailer or

24 something?

25 A No.

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1 Q Did he move to another house off of your dad's property?

2 A Yes.

3 Q And did you go and visit him before you were involved in

4 Scouting, or see him at that home?

5 A I may have drive -- with my dad, drive over with him,

6 just --

7 Q Okay. Before you were involved in any Scouting activities,

8 did he ever abuse you in that house that he moved to?

9 A No.

10 Q Am I correct, then, in my understanding that after the two

11 instances of abuse in your father's house, family home,

12 that there was no further abuse until you joined the

13 Scouts?

14 A Yes.

15 Q So if it started when you were eight years old, as you've

16 indicated in your answers to interrogatories, then from

17 then until you joined Scouts, which would be 12 years old,

18 you weren't abused by Jack Loholt; is that correct? Or do

19 I understand that correctly?

20 A That I can remember.

21 Q Okay. So you had the initial abuse, then there was no more

22 abuse, and then you got into Scouting, and did the abuse

23 start again, then, when you were in Scouting?

24 A Yes.

25 Q When do you remember the first incidence of abuse after you

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1 joined the Boy Scouts?

2 A I can't remember. Just -- we'd go up to his house for

3 Scout camp outs.

4 Q Okay. So you'd go with the Scouts up to his house?

5 A (Witness nods.)

6 Q What do you mean, camp outs? What was that?

7 A We'd have camp outs, 50-milers, stuff like that.

8 Q But not at his house?

9 A He'd have all the Scouts up there for like rifle practice,

10 rifle shooting, we'd do merit badges.

11 Q And did the abuse start again, then, when you went to his

12 house?

13 A Yes.

14 Q Did it start right away, as soon as you joined Scouts?

15 A No, slowly progressed.

16 Q Do you remember the first time that you were abused after

17 you were a Scout? What were the circumstances?

18 A We were at a camp out up at the house. He had a big tent,

19 and we were all camping out, about eight, ten Scouts. He

20 came out, asked Kenny and I to come inside. And we were to

21 sleep with -- stay with him inside.

22 Q And were you abused that night --

23 A Yes.

24 Q -- in his house? What kind of abuse did he inflict on you?

25 A Fondled us, sucked on our toes.

10 (Pages 34 to 37)

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1 Q All right. Did you stay in Scouting?
 2 A No.
 3 Q After you completed Boy Scouts, did you quit the Scouting
 4 movement all together?
 5 A Yeah. Yes.
 6 Q Did the abuse -- did your abuse continue after you quit
 7 Scouting?
 8 A I can't remember.
 9 Q You can't remember?
 10 A (Witness shakes head.)
 11 Q Do you think it did or you just have no memory at all?
 12 A I don't remember.
 13 Q Would you like to stop or for a minute?
 14 A Yeah.
 15 Q Okay. Let's go off the record.
 16 THE VIDEOGRAPHER: We are now going off the
 17 record. The time is approximately 11:51 a.m.
 18 (A brief recess was taken.)
 19 THE VIDEOGRAPHER: We are back on the record.
 20 The time is approximately 12:07 p.m.
 21 Q (By Mr. Frey) Okay, Mr. Allenbach. Are you ready to go
 22 again?
 23 A Yes.
 24 Q All right. Earlier, we discussed, talked for a minute
 25 about your telling your dad on two different occasions.

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1 Why did you tell your dad?
 2 A Because I felt he needed to know.
 3 Q You felt something wrong had been done to you, right?
 4 A Yes.
 5 Q And you wanted your dad to know about it?
 6 A I knew it was wrong, what he was doing.
 7 Q And you wanted your dad to know that --
 8 A Yes.
 9 Q -- is that correct? Okay. At the time this abuse first
 10 started, you said you were about eight years old, and that
 11 it lasted for a while --
 12 A Yes.
 13 Q -- while he was in the house. How did it make you feel? I
 14 mean, what was your reaction to it? Do you remember?
 15 A No, I don't remember.
 16 Q Let's skip forward, then. You said the abuse stopped until
 17 you got into Boy Scouts, when you started going to his
 18 house with some of the other --
 19 A Scouts.
 20 Q -- Scouts. When he started abusing you there, how did it
 21 make you feel?
 22 A Dirty. I don't know.
 23 Q Were you embarrassed?
 24 A Yeah. At 12, I don't know -- how do you feel at 12?
 25 Q I'm just trying to get your idea of what you can remember

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1 today about how you felt then. What did it make you feel
 2 like, in just your own words, just however you can best
 3 describe it for me.
 4 A No feelings at all. Felt abused.
 5 Q Were you upset when it happened? Did it upset you, or were
 6 you scared or --
 7 A Scared.
 8 Q Okay. Did you feel like you couldn't stop him from doing
 9 it?
 10 A Yes.
 11 Q What else can you tell me about how you felt?
 12 A I felt trust had been broken between us.
 13 Q Now, when we're talking -- I think when we left off, you
 14 said after you left Scouts, did you then -- then he stopped
 15 abusing you at this point in time, to the best of your
 16 memory --
 17 A Yes.
 18 Q -- is that correct?
 19 A Yes.
 20 Q Okay. So after age 13 or whatever, when you get out of
 21 Scouting, he stopped -- did you stop going to his house?
 22 A Yes, unless I was with my dad or something.
 23 Q Okay. But you never went up there with other boys and so
 24 forth; is that correct?
 25 A Yes.

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1 Q Now, you mentioned at the beginning of your deposition
 2 about your being in school, and you had some difficulties
 3 in grade school; is that correct?
 4 A Yes.
 5 Q You mentioned something about -- were you kicked out or is
 6 that the wrong term to use?
 7 A Yeah, sixth grade.
 8 Q And was there someone else with you that -- did the Kelly
 9 boy also get kicked out?
 10 A He was at the school before myself. He was a grade ahead
 11 of me.
 12 Q Bob Kelly was?
 13 A Bob Kelly did attend the same church school.
 14 Q So you and Bob Kelly went to the same church school, he was
 15 in sixth grade and you were in seventh grade; is that
 16 right?
 17 A Or --
 18 Q Or you were in the sixth grade and he was in seventh. I'm
 19 sorry. And what church school did you go to?
 20 A St. James.
 21 Q Downtown Seattle?
 22 A Kent.
 23 Q Oh, in Kent. Okay. And how long did you attend there?
 24 A One year.
 25 Q And after that one year, where did you go to school?

12 (Pages 42 to 45)

Page 50

1 that person?

2 A No.

3 Q Did you have problems with your behavior when you were in

4 high school as well?

5 A Yeah.

6 Q Were you ever kicked out of high school?

7 A Expelled a couple times.

8 Q For what kind of conduct?

9 A Destruction and breaking things.

10 Q Pardon me?

11 A Destruction, breaking things in the bathroom, tearing seats

12 off.

13 Q Let me go back a minute. Before you ever met Jack Loholt

14 or heard of Jack Loholt when you were going up in the

15 Allenbach house, do you remember, from the time you moved

16 in until you were eight years old, whether or not you had

17 any difficulties with your behavior as far as your parents

18 were concerned?

19 A No.

20 Q How did you relate to your dad during this time period,

21 before the abuse started?

22 A Very close.

23 Q Did he take you on trips and take you to ball games --

24 A Yeah.

25 Q -- and that sort of thing?

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1 A (Witness nods.)

2 Q How about your mom?

3 A No.

4 Q Pardon me?

5 A No, we didn't get along.

6 Q You didn't get along with your mom? Okay.

7 A She beat me.

8 Q In the records which we've been provided from the -- from

9 the Puget Sound Hospital, there's a statement, and I want

10 to read this to you, okay, to see if -- I want to ask you

11 if you think it's a correct statement. It says, "The

12 patient states that he, however, had considerable conflicts

13 with his adoptive mother, stating that she was physically

14 and emotionally abusive to him, often hitting him with her

15 hands, as well as always showing considerable favoritism to

16 his older brother." Is that a fair statement?

17 A (Witness nods.)

18 Q Did your mother treat you that way before you met Jack

19 Loholt?

20 A Yeah.

21 Q Do you know what the conflict was with your mom?

22 A She wanted my little sister and not me, from what I was

23 told.

24 Q Who told you that?

25 A I'd heard it.

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1 Q Your little sister was adopted too?

2 A Yeah.

3 Q Was she adopted before or after you?

4 A As far as I know, together.

5 Q Did your relationship with your mother ever become better?

6 A No.

7 Q Pardon me?

8 A No.

9 Q Has that been something that's been a very difficult thing

10 for you to deal with?

11 A Yeah.

12 Q Emotionally; is that correct?

13 A Yes.

14 Q Do you feel that your relationship with your mother has

15 affected your life? Has had an impact on your life?

16 A Yeah.

17 Q Pardon me?

18 A Yes.

19 Q Now, insofar as your father is concerned, you said you had

20 a good relationship with him; is that correct?

21 A Yes. I thought so.

22 Q Pardon me?

23 A I thought so.

24 Q How would you describe your father for me, Mr. Allenbach?

25 A Happy, exhilarating, kind, caring, do anything for others.

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1 Q Would you describe him as rigid?

2 A Explain rigid.

3 Q Was he a person who had very firm opinions?

4 A Yes.

5 Q And would you say -- and he made you -- was a task master,

6 if he asked you to do something he wanted it done right, in

7 a certain way? Is that the kind of man he was?

8 A Yes.

9 Q The reason I ask that, there's again, a mention in the

10 treatment records that you wanted to do your follow-up on

11 your cocaine treatment, but that if you took off early your

12 dad would dock you a full day's pay.

13 A Mm-hmm. Yes.

14 Q Is that the kind of man that he was?

15 A Mm-hmm.

16 Q That he would do that to you?

17 A Yes.

18 Q There's also a mention there that he was harder on you than

19 he was on the other employees. Is that true? His other

20 employees, he expected more of you?

21 A Not necessarily. Just mainly son, he'd require you to do

22 your best. Being his son, he'd require you to do your

23 best.

24 Q Did he expect more of you than he did the other people, do

25 you think, because you were his son?

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1 Q Bishop Pettit, did he say anything about how are you doing
2 or is there anything wrong or do you have any remembrance
3 of that meeting at all?
4 A No. I don't remember it.
5 Q But you have a clear memory that you told him there was
6 some abuse?
7 A I know I talked to him, yes.
8 Q And you told him about the abuse?
9 A (Witness nods.) Yes.
10 Q Is that correct?
11 A Yes.
12 Q But you don't remember what he told him, huh?
13 A No.
14 Q When you say that he pulled them in -- "he pulled us in,"
15 both of you boys went in together? Did he have both of you
16 inside there, it sounds like? That's your description, not
17 mine. You said, "He pulled us in."
18 A Well, I had gone to Kevin and talked to him, so -- I can't
19 remember if he pulled us both in or one at a time.
20 Q You had gone to Kevin to talk to who?
21 A Well, we used to always kid about it, I'd kid about it when
22 I was a kid.
23 Q With whom?
24 A Several of the Scouts.
25 Q Did Kevin tell you that he had been abused?

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1 A No.
2 Q So you don't know whether Kevin had been abused; is that
3 correct?
4 A Well, just through hearsay, that he had.
5 Q But he never told you that?
6 A No.
7 Q Do you know if he ever told Bishop Pettit that he had been
8 abused?
9 A No, I don't know.
10 Q Okay. It sounds like he interviewed both of you
11 separately; is that a fair statement?
12 A Probably.
13 Q Now, I want to go back for a minute to this interrogatory
14 about -- it asks you who you told about this abuse. We've
15 talked about your telling your dad --
16 A Mm-hmm.
17 Q And we've talked about -- we haven't talked about, but the
18 next person you list is your wife.
19 A Mm-hmm.
20 Q When did you tell your wife? You said sometime -- in an
21 answer, in the 1990s. Do you remember when you told your
22 wife?
23 A No, it just came up.
24 Q How did it come up?
25 A Just through conversations with others, other friends and

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1 that we talked about it, and she'd always thought I was
2 kidding about it.
3 Q Was it -- when you say others, who was there?
4 A Just friends that hung out in church, we were all together,
5 church members.
6 Q And were you still attending a church in the '90s, the LDS
7 church?
8 A Far that I know of, I was kind of inactive active.
9 Q By the way, are you currently active in the church at all?
10 A Right now, I'm -- my wife's active and I am inactive. I go
11 there every so often.
12 Q With regard to telling your wife, would this have been in
13 conjunction with your going -- when you agreed to go for
14 counseling for cocaine addiction, back in '96?
15 A Repeat the question?
16 Q Would you have told your wife at the time in the '90s,
17 would it have been about the same time you went in to
18 the -- what's his name, the Puget Sound Hospital for
19 cocaine addiction?
20 A I'm not sure.
21 Q The records indicate that you told the people at Puget
22 Sound Hospital about your sexual abuse. Do you remember
23 that? You told them you were sexually abused?
24 A Do I remember that?
25 Q Yeah, do you remember telling them that?

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1 A No, I don't remember.
2 Q When you told your wife, you said you were always kidding
3 about it. I'm not sure what you're telling me. Would you
4 explain that?
5 A The actions that Jack did to me, I would kid about it, like
6 the events that happened, I would tell them and everybody
7 would think that I was just kidding around with them.
8 Q And what do you mean, "everybody"? Who would you tell?
9 A The boys -- we hung out really close, all the kids at the
10 church, youth and that, as we grew up. We were really
11 close.
12 Q So this is way after, well after Scouting and you were
13 still in the church?
14 A Yeah.
15 Q How old would you be when you discussed this -- when did
16 you discuss this with the other kids? How long would this
17 last?
18 A Oh, just jokes, I'd tell them -- like the pencil trick or
19 I'd say stuff like that, to kid around with them. It
20 wasn't a --
21 Q So sometime in the '90s, you told your wife; is that
22 correct?
23 A Mm-hmm. Well, she had heard -- you know, as we grew up,
24 she'd heard different things and that, but she never came
25 and confronted me.

16 (Pages 58 to 61)

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1 Q And what did you tell your wife?
 2 A Just I was involved in sexual abuse.
 3 Q Did you explain to her what had happened to you?
 4 A I can't remember.
 5 Q Well, did she ask you what are you talking about?
 6 A No, she didn't ask. I just pretty well told her that I
 7 was -- things that happened to me, growing up, through
 8 Scouts.
 9 Q Did you tell her some of the things you've told me?
 10 A No, she'd heard about the -- you know, joking around,
 11 pencil tricks, stuff like that, they all thought --
 12 Q Pencil tricks? What do you mean?
 13 A He would take a pencil and put it up his butt, and then do
 14 it up ours, mine, and make it disappear.
 15 Q And you told your wife about that, or people that you joked
 16 about that?
 17 A Yeah.
 18 Q So when you told your wife, what was her reaction to this?
 19 A Not much. I don't know. I can't remember much about it.
 20 Q Okay. Did you tell her how it affected you?
 21 A I can't remember.
 22 Q Was there a particular circumstance that caused you to tell
 23 your wife, like you were --
 24 A She might have asked. I just -- I told her a little bit
 25 about it.

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1 Q Okay. Now, after you disclosed this to your wife, did you
 2 talk about it after that for any period of time, or did it
 3 come up again at all?
 4 A I can't remember.
 5 Q Other than your wife and your dad, who else have you told
 6 about your being abused that you can remember?
 7 A No one, that I can remember. I kept it pretty quiet.
 8 Q Did you tell -- well, Bob Kelly knew, didn't he?
 9 A Yes.
 10 Q And how about Todd Denny? Do you know who Todd Denny is?
 11 A Mm-hmm.
 12 Q Did you tell him about it?
 13 A He was one that we'd always joke about it. It was a big
 14 joke, basically.
 15 Q Okay. And did Denny joke with you about it?
 16 A Mm-hmm, yeah.
 17 Q Anyone else that you can remember that you told?
 18 A No.
 19 Q So we've talked about Bishop Pettit, we've talked about
 20 your wife and your dad and you said Todd Denny knew and Bob
 21 Kelly knew. Anyone else you can think of?
 22 A I can't think of anyone else right to hand.
 23 Q Did you of tell your mom?
 24 A No.
 25 Q How about your brothers?

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1 A In the joking, they'd heard it.
 2 Q They heard it in the joking?
 3 A When -- yeah.
 4 Q Did you understand that they knew that -- when you were
 5 joking, that something had actually happened?
 6 A What was that? Repeat that?
 7 Q Well, you said you joked about it.
 8 A Yeah.
 9 Q In what way did you joke with them about it?
 10 A We'd call it the pencil trick or stuff like that.
 11 Q Was this something that was kind of humorous?
 12 A To us?
 13 Q Yes.
 14 A No, it was a way that I was trying to probably reach out.
 15 I don't know what it was.
 16 Q Did either of your brothers indicate to you that they had
 17 been abused too?
 18 A No.
 19 Q So Brent and Rick never said anything to you?
 20 A Hmm-mm.
 21 Q All right. But you knew Rick had been abused, right?
 22 A The only thing I heard was through -- that he did a plaster
 23 of Paris, and that's the only thing.
 24 Q But never in your -- he was never abused in your
 25 presence --

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1 A No.
 2 Q -- is that correct? Okay. Have you gone to see any
 3 counselor or psychologist or therapist of any kind to work
 4 with you concerning the abuse that you suffered at the
 5 hands of Jack Loholt?
 6 A No. I've wanted to, but I don't want to bring it up.
 7 Q Okay. Have you ever -- when you were at Puget Sound
 8 Hospital, do you know if they ever gave you any type of
 9 psychological tests there, such as they gave you a form and
 10 you had to fill in little dots, they'd ask questions
 11 like -- we call it an MMPI.
 12 A I can't remember.
 13 Q Okay. So you don't know what testing if any they gave you
 14 there?
 15 A (Witness shakes head.)
 16 Q Okay. How would you describe your relationship with your
 17 brothers, Brent and Rick?
 18 A Brent, I'm really close to. Ricky, I don't care for.
 19 Q Is there some reason you don't care for Ricky?
 20 A It has to deal with my mom.
 21 Q Is that because you believe your mother favored Ricky over
 22 you?
 23 A Yes.
 24 Q How would she do that?
 25 A At Christmas time she'd give him my presents and I'd get

17 (Pages 62 to 65)

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1 A Probably within the last -- repeat that question.
 2 Q How long have you had feelings that you felt depressed or
 3 this lack of self confidence or low self esteem? How long
 4 has that feeling been with you?
 5 A It's always been there.
 6 Q When did you get deep into pornography? I think you said
 7 that was one of the other things that --
 8 A I was, actually, looking at pornography out on my mission,
 9 and before that, back into the youth age.
 10 Q So that's been a problem that you feel -- that's been going
 11 on all of that time?
 12 A Yes.
 13 Q Do you remember anything, as we sit here today, do you
 14 remember anything about your birth mother at all? Do you
 15 have any memory in your mind, a picture of her or any
 16 memory at all of her?
 17 A No.
 18 Q Is your only memory what people have related to you about
 19 her, anything about her?
 20 A Would be that, and then walking in on her when she cut her
 21 wrists, slit her wrists.
 22 Q Do you have a memory of that?
 23 A Yeah.
 24 Q Was that terrifying for you, I imagine?
 25 A (Witness nods.) Yes. Yes.

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1 Q You talked earlier about kids in the troop, or boys that
 2 you kidded with. You mentioned the pencil trick or
 3 whatever you called it.
 4 A Mm-hmm.
 5 Q Can you tell me, to the best of your memory today, the
 6 names of the boys that you joked or talked to about this?
 7 A Kevin Boren, David Gross, Brian Gross, Ricky.
 8 Q Ricky Allenbach?
 9 A Allenbach, Todd Bush, Danny Fleming, Kenny Fleming, Brett
 10 Parkin.
 11 Q Parker?
 12 A Parkin.
 13 Q Do you know how you spell his name?
 14 A P-A-R-K-I-N.
 15 Q Anyone else?
 16 A No.
 17 Q Were all of those boys at one time or another in your Scout
 18 troop?
 19 A Yes.
 20 Q You mentioned earlier you -- did you kid with your brother
 21 Rick about it?
 22 A He was around when I would say it.
 23 Q And how would this come up?
 24 A We would just be talking, like boys talk, I guess. And
 25 then I would say, you want me to show you the pencil trick?

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1 Or say, what about the pencil trick?
 2 Q Did the other boys laugh about it?
 3 A Yeah.
 4 Q They knew what you were talking about?
 5 A I don't know. They might have. They -- if I described it
 6 or told them before. I just would say the pencil trick,
 7 and kid around with it. They'd laugh.
 8 Q I don't think that we -- at least, in my mind, we have
 9 identified completely -- and maybe you have, and that's
 10 what I'd like you to answer -- the types of abuse that you
 11 can describe for me that you were subjected to. Now, you
 12 have described a number of things. Is there anything that
 13 you haven't told me that Jack Loholt did to you?
 14 A Yeah.
 15 Q What was that?
 16 A He would relieve himself on me, put his finger in my
 17 behind. The pencil trick, he'd try and do to me. He
 18 showed me downstairs of his house where he had kept vials
 19 of semen that he'd gotten -- received, or -- I don't know
 20 where. Stuff like that.
 21 Q Did he ever have oral sex with you?
 22 A He tried, yeah.
 23 Q Did he ever have sex with you anally?
 24 A He tried to, but it was -- it hurt.
 25 Q How many times did that occur; do you know?

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1 A I can't -- probably three or four, once down below at my
 2 dad's, and then the others were up at his house.
 3 Q The other thing I wanted to clarify is, the abuse occurred
 4 in your home until he moved out. Do you have any idea how
 5 long that was that the abuse happened in the basement, or
 6 on the family property, before he moved? You said it
 7 started when you were eight. Was it a year or do you have
 8 any idea?
 9 A I don't have any idea.
 10 Q And then, the abuse stopped until you began becoming
 11 involved with -- when you became a Boy Scout?
 12 A Became a Boy Scout.
 13 Q Right?
 14 A (Witness nods.)
 15 Q Can you give me some notion of how long that period was
 16 where there was no abuse?
 17 A No, I cannot remember.
 18 Q Do you intend to sue the estate of your father?
 19 A I don't know.
 20 Q Does that mean you may or may not? You just haven't made
 21 up your mind yet?
 22 A Haven't discussed it.
 23 Q I want to now go to another area. You have been involved
 24 in some arrests and some convictions; have you not?
 25 A (Witness nods).

21 (Pages 78 to 81)

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1 A I have no idea.
 2 Q You have no idea? What do you think they did wrong? Let's
 3 put it that way. What do you think the church did that was
 4 wrong?
 5 A They were negligent in keeping him in the Scouting program.
 6 They knew of the incident.
 7 Q Of what incident?
 8 A Of the problems that they were having.
 9 Q And how do you know they knew?
 10 A Well, I went to them one time.
 11 Q But that was after your abuse had stopped, wasn't it, when
 12 you went with Boren, Kevin Boren?
 13 A I don't know.
 14 Q Well, after you went to see Bishop Pettit with Kevin Boren,
 15 did you continue to be abused after that?
 16 A I can't remember.
 17 Q Your dad also knew of the abuse too, didn't he?
 18 A Yeah.
 19 Q And do you feel that he has any responsibility because of
 20 that?
 21 A Yeah.
 22 Q What type of work are you trying to find right now, if any?
 23 A Anything.
 24 Q Do you collect unemployment?
 25 A No.

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1 Q Is your wife the support of your family?
 2 A Yes.
 3 Q And how long has she been doing that?
 4 A Since -- probably six months.
 5 Q What is your understanding is the likely outcome of your
 6 sentencing on this last conviction? Will you have to spend
 7 time incarcerated, or in jail, do you think?
 8 A Yeah.
 9 Q Do you have any idea of how long that will be?
 10 A No.
 11 Q Mr. Allenbach, thank you. I'm sorry to have to put you
 12 through this discomfort, and I've tried to be as civil as I
 13 can about it. I appreciate your coming down here. And
 14 that's all the questions I have.
 15 THE VIDEOGRAPHER: This is the end of
 16 Videotape No. 2, and concludes deposition of Jim Allenbach.
 17 The time is now approximately 2:47 p.m. Here ends this
 18 deposition.
 19 (At 2:47 p.m. the proceedings were
 20 adjourned.)
 21 (Signature was reserved.)
 22
 23
 24
 25

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C E R T I F I C A T E

1
 2
 3 STATE OF WASHINGTON)
) ss.
 4 COUNTY OF KING)
 5

6 I, Alison Lott, Notary Public in and for the State of
 7 Washington, do hereby certify:

8 That the annexed and foregoing deposition was taken
 9 stenographically by me and reduced to typewriting under my
 10 direction;

11 I further certify that I am in no way related to any
 12 party to the cause of action concerned, nor to any of counsel,
 13 nor do I have a financial interest in the event of the cause;

14 I further certify that the deposition as transcribed is
 15 a full, true and correct transcript of the proceedings;

16 IN WITNESS WHEREOF, I have hereunto set my hand and
 17 affixed my Official Seal this 29th day of July, 2005.
 18
 19
 20
 21
 22

23 Notary Public in and for the State
 of Washington, residing at Edmonds.
 My Commission expires 1/15/07.
 24
 25

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C O R R E C T I O N S H E E T

1
 2 Please make all changes or corrections on this sheet, not in the
 transcript itself, showing page, line, and reason for the change.
 3 If there are no changes, write "none" across the page. Sign this
 sheet and the affidavit.
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SIGNATURE OF DEPONENT

DATE SIGNED:

24 (Pages 90 to 93)